

City of Milford



AGENDA

Council Meeting

April 19, 2012*

Milford City Hall - Joseph Ronnie Rogers Council Chambers - 201 South Walnut Street, Milford, Delaware

Special Council Meeting 5:30 P.M.

Call to Order - Vice Mayor Katrina Wilson

Executive Session**

§10004. Open meetings.

(b) A public body may call for an executive session closed to the public pursuant to subsections (c) and (e) of this section, but only for the following purposes:

(3) Activities of any law-enforcement agency in its efforts to collect information leading to criminal apprehension.

Introduction of Disorderly Premises Ordinance 2012-8

Adjourn

SUPPORTING DOCUMENTS MUST BE SUBMITTED TO THE CITY CLERK IN ELECTRONIC FORMAT NO LATER THAN ONE WEEK PRIOR TO MEETING; NO PAPER DOCUMENTS WILL BE ACCEPTED OR DISTRIBUTED AFTER PACKET HAS BEEN POSTED ON THE CITY OF MILFORD WEBSITE.

This agenda shall be subject to change to include additional items including executive sessions or the deletion of items including executive sessions which arise at the time of the public body's meeting.

04/16/12 *Scheduled as a Special Council Meeting due to urgency as a result of chronic reoccurring disturbances (weekend events)

04/17/12 **Individual investigations will be discussed

PUBLIC NOTICE

Notice of City of Milford Ordinance Review

The following ordinance is currently under review by Milford City Council:

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF MILFORD BY ADDING A NEW CHAPTER ENTITLED DISORDERLY PREMISES.

ORDINANCE 2012-08

NOW, THEREFORE, THE CITY OF MILFORD HEREBY ORDAINS:

Section 1.

Amend the City of Milford Code by adding a new Chapter entitled Disorderly Premises to read as follows:

Disorderly Premises.

A. For purposes of the “Disorderly Premises” ordinance, the following definitions shall apply:

(1) “Person” shall be defined as “any owner, owner's agent, manager, caretaker, tenant, occupant and/or Person occupying and/or responsible for any residential, commercial or any other premises located in the City of Milford regardless of whether it be a Person or artificial entity.

(2) “Unauthorized Conduct” shall be defined as “any conduct which causes public inconvenience, annoyance, alarm or danger to a reasonable Person, has the reasonable likelihood of causing public inconvenience, annoyance, alarm or danger or disrupts the quiet use, enjoyment and good order of adjoining and surrounding properties including, but not limited to, engaging in fighting or in violent, tumultuous, or threatening behavior, making unreasonable noise or an offensively coarse utterance, gesture or display or addressing abusive language to any person present, obstructing vehicular traffic or pedestrian traffic, creating a hazardous or physically offensive condition which serves no legitimate purpose or engaging in any unlawful conduct.

B. It shall be unlawful for any Person to engage in any Unauthorized Conduct at any time on any premises located in the City of Milford. Any Person who fails to obey the order of a Police Officer to dispel and disperse or otherwise discontinue the Unauthorized Conduct may be cited for an additional violation of this Chapter.

C. Any Person who occupies or exercises any control over the premises where the violation of Subsection B hereof has occurred, or where the violation of Subsection B originated should the violation move immediately to another public venue, shall be presumed to

allow, suffer or permit such conduct after receiving notice that such conduct has occurred and shall be in violation of this Chapter if a further violation of Subsection B occurs within One Hundred Eighty (180) days of receiving said notice.

D. Notice is properly served upon a Person if a copy of such notice is:

- (1) delivered to the Person personally;
- (2) hand delivered to the Person's registered office ;
- (3) left at the Person's usual place of abode or business, in the presence of an employee or family member who has reached the age of majority, whichever the case may be, who shall be informed of the contents of such notice;
- (4) sent by certified mail, return receipt requested addressed to the Person at the Person's last known address; or
- (5) sent by certified mail, return receipt requested to the mailing address of the owner of the subject premises as recorded on the City of Milford Assessment Records.

After service of notice, the Person shall make a good faith effort to develop a plan of action with the City Council of Milford and the City of Milford Police Department to prevent further violation of Subsection B. Failure to make such effort to develop the plan shall be considered a violation of Subsection B.

E. Any Person convicted of a violation of this Chapter shall be fined no more than one thousand dollars (\$1,000.00) for any offense but no less than one hundred dollars (\$100.00) for the first offense, no less than three hundred dollars (\$300.00) for the second offense, and no less than five hundred dollars (\$500.00) for each subsequent like offense. In the event the Person convicted is a minor, the minor's parent or guardian shall be financially responsible for the payment of any and all fines assessed under this provision. In any prosecution for an offense under this Chapter, it shall be an affirmative defense, which must be proved by the preponderance of the evidence, that the tenant or occupant has been evicted and is no longer on the premises, or if there is pending at the time of trial an eviction action against the tenant or occupant of the premises which action is being pursued in good faith. Otherwise the fines imposed under this Subsection shall not be suspended.

F. Any Person convicted of a violation of this ordinance shall be responsible for any and all additional expenses incurred by the City of Milford as a result of the Person's Unauthorized Conduct and shall indemnify the City of Milford and its personnel from any claims for loss or damage to person or property (real or personal) that may directly or indirectly be occasioned by the Unauthorized Conduct. In the event the Person convicted is a minor, the minor's parent or guardian shall be financially responsible for the payment thereof.

Additional expenses shall include, but shall not be limited to, attorneys' fees, court costs and expenses incurred in conjunction with any such claim, removal of all debris and litter from public property and surrounding properties affected by the Unauthorized Conduct, damage to personal property located on public property and surrounding properties, the

cost of retaining outside law enforcement and/or other emergency assistance, the cost for police officers or other emergency personnel to appear in court, damages to personal or real public property, and personal injury damages (including death) to City of Milford employees and other outside law enforcement and/or emergency personnel.

- G. In the event a Person convicted of a violation of this ordinance fails or refuses to comply with a order of the City of Milford Police Department and/or the City of Milford Code Enforcement Officer, after due notice thereof, either actual or constructive, to remit payment for any fines or additional expenses owed in accordance with Subsections E and F. hereof, said amounts shall be charged against the real estate upon which the violation occurred and shall be a lien upon such real estate. Upon certification of a lien to the appropriate City or official by the City of Milford Police Department and/or the City of Milford Code Enforcement Officer, the amount of such lien shall be recorded in the Office of the Recorder of Deeds in the County where the property is located. The City Manager, in the name of the City of Milford, may institute suit before any Justice of the Peace within Kent County or Sussex County, or in the Court of Common Pleas in and for Kent or Sussex County, or in the Superior Court of the State of Delaware, for the recovery of the unpaid additional expenses in an action of debt, and upon judgment obtained, may sue out writs of execution as in case of other judgments recovered before a Justice of the Peace or in the Court of Common Pleas or in the Superior Court as the case may be.
- H. This Chapter shall be enforced by the City of Milford Police Department and/or the City of Milford Code Enforcement Officer. Jurisdiction for violations of this ordinance shall be in the Justice of the Peace Court.

Section 2. Dates.

Introduction: 04/19/2012

Adoption: 04/23/2012

Effective: 05/03/2012